

No.

United States
Circuit Court of Appeals
For the Ninth Circuit.

GARY SWAN,

Appellant,

vs.

CONSOLIDATED WATER COMPANY OF POMONA, a corporation, G. A. LATHROP, C. W. ALLISON, C. M. LATHROP, FRANK LATHROP, W. H. JOHNSTON, JAMES LONEY, S. M. HASKELL, J. P. STORRS, CLEFA BROWN-RIGG, CARL C. BOYD, F. C. BALFOUR, LILLIAN B. PARRY, F. B. ROBINSON, trustee, HELEN B. SMITH and J. E. STILLWELL, G. A. LATHROP AND J. E. STILLWELL, as executors of the Estate of Mrs. Emily Grady Gridley,
Appellees.

SUPPLEMENT TO
Transcript of Record.

Upon Appeal from the United States District Court for
the Southern District of California,
Southern Division.

I N D E X.

[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original record are printed literally in italic; and, likewise, cancelled matter appearing in the original record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italics the two words between which the omission seems to occur.]

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Names and Addresses of Attorneys.

For Appellant:

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Los Angeles, California.

For Appellees:

KEMPER CAMPBELL, Esq.,

1408 C. C. Chapman Building,
Los Angeles, California.

(Testimony of J. E. Stillwell.)

Q Along with Mr. G. A. Lathrop, a defendant in this suit?

A Yes, sir.

Q You have a brother-in-law who is one of the legatees under the will of Mrs. Gridley?

A My wife's brother-in-law, yes, sir.

Q Was your brother-in-law interested in disposing of his stock in the water company or getting the money out of the company?

A I don't know as I quite understand your question.
(Question read.)

A Well, after the company had sold its water plant, and so forth, he thought he ought to have his share as soon as the estate was distributed. He was merely a legatee, and the stock had not yet been distributed, and he thought he ought to have his share of the money.

Q He told you about that?

A Yes, sir, he wrote me a letter.

Q And did you advise him that it was impossible to disincorporate and dissolve the corporation so that he could get his money out of it?

A I believe no. I did write and ask him to join in with Mr. Swan, or join in with the others in this matter, to assist in bringing it about.

Q How did you first get in touch with Mr. Swan, Mr. Stillwell?

A I was at Pomona, and I called on the City Attorney in behalf of the legatees of the estate, and asked him by what right the city thought they were buying the water company without a vote of the stockholders. He was City Attorney, and I thought, inasmuch as the

(Testimony of J. E. Stillwell.)

company was selling out to the city, it was a stockholders' proposition, as I understood it, and I went to see Mr. Allard, the City Attorney, and introduced myself as one of the co-executors and told him that the legatees would like to have their money, and Mr. Allard told me—he says, "I have a client who will be *might* glad to join in on that thing," and he looked up his books and gave me the address of G. H. Swan, Geneva, Ohio.

Q Whom were you representing in talking with Mr. Allard?

A I was representing the Gridley estate.

Q Was the estate interested in dissolving the corporation?

A It surely is, in getting the money to pay its legacies.

Q Under the terms of that will these legacies were of stock, and not money, were they not?

A Yes, sir.

Q Then, so far as the estate was concerned, it had no interest in whether they got the stock or the money, did it?

A After the money was subject to execution, I thought they were interested in getting the money.

Q There is money in the assets of the estate to pay all the cash legacies of the estate, is there not?

A I can't give you the figures. Mr. Lathrop could tell you about that.

Q These legacies were specific legacies of this stock, weren't they?

A Yes, sir.

(Testimony of J. E. Stillwell.)

Q And all you had to do was to distribute the stock, isn't that a fact?

A Yes.

Q Did you write some letters to the various legatees under this will and ask them if they would be interested in joining in a proceeding to get the corporation dissolved and get money for their stock?

A I did.

Q Did you suggest to them that an attorney be employed for that purpose?

A I did, I think.

Q Did you write similar letters to the stockholders of the corporation?

A I believe Mr. Swan is the only stockholder I wrote to—no, I wrote to Mr. Harry, I believe, at Fullerton.

Q And the other stockholders you interviewed personally?

A Yes, I believe so.

Q Did you interview the other stockholders before you interviewed Mr. Swan?

A Mr. Swan employed Mr. Austin before anyone else was approached on that subject.

Q Did you represent to Mr. Swan that you were going to secure the co-operation of all of the stockholders?

A That was last summer, and I do not have in mind just what I wrote, but I believe I gave him to understand that there would probably be a movement to compel the distribution of this money.

Q In which other stockholders would join?

(Testimony of J. E. Stillwell.)

A Perhaps. I haven't seen the letter since it was written. Probably in June or July. I do not remember just what I wrote.

Q Do you mean to intimate to this Court that you suggested to Mr. Swan that he should employ an attorney at his own expense and finance this suit for dissolution of this corporation?

A I wrote to Mr. Swan and told him that Mr. Austin would take the proposition on a contingent fee, if he wished to join, and he wired back that he would like to do so.

Q And you told him in that letter, did you not, that there was a movement on to get all of the legatees and some of the stockholders to join in the suit for dissolution, to liquidate the assets and divide them?

A No, sir; there hadn't been a legatee approached on the subject, or a stockholder, at that time.

Q Didn't you tell him there would be?

A I thought it was part of my duty to protect the interests of these legatees and have the money distributed. They had written me that they wanted it. If you had notified me, Mr. Campbell, I would have brought you some letters to show these things.

Q Did you make any statement to Mr. Swan indicating that he was to institute this suit at your instigation, and was to pay the cost of it, on a contingent basis, himself, without the aid of anybody else?

A I would rather get my letter and submit it to the Court.

Q Don't you remember that? Don't you remember whether or not you had an arrangement with Mr. Swan

(Testimony of J. E. Stillwell.)

that he was to be the sole plaintiff here in this behalf, and pay for this suit? Do you want the Court to believe you don't remember?

A It was our suggestion that the suit be brought in Mr. Swan's name.

Q That wasn't what I asked you. Did you have an arrangement with Mr. Swan, or did you suggest to Mr. Swan, that he was to institute this suit at his expense, hiring Mr. Austin on a contingent basis, and paying the whole fee? Was that it?

A No, sir.

Q Tell the Court what you did tell him, as near as you can remember it.

A If the Court please, I would rather have just what I wrote to Mr. Swan. If he had given me notice, I would have produced a copy of my letter.

THE COURT: Well, tell what you remember.

A My recollection is that the conversation—the conversation I had with Mr. Allard at Pomona, that I would be pleased to get this money distributed, and that I had talked to Mr. Austin, and Mr. Austin proposed that he would take up the case on a contingent fee, and I think that was about the substance of my letter.

Q BY MR. CAMPBELL: Now, Mr. Swan only had 50 shares of stock?

A 65.

Q 65 shares of stock, out of 500?

A 5000.

Q 65 shares of stock out of 5000?

A Yes, sir.

Q Was your wife's brother-in-law interested in this matter?

(Testimony of J. E. Stillwell.)

A He knew nothing about it.

Q Why didn't you represent him?

A I was representing him as executor, and all the others.

Q Well, he would have his stock soon enough, wouldn't he?

A He hasn't got it yet.

Q Due him under distribution?

A It is not distributed yet.

Q When it was distributed, you could have represented him?

A He is a non-resident; he lives in Wyoming.

Q After you secured Swan as a party, you then circularized other legatees, and you went to see other stockholders personally, did you not?

A Yes, I did.

Q That was the arrangement with Mr. Austin, was it not, that you would do so?

A It was supposed that Mr. Swan and the other stockholders would be interested in having this money, and I supposed that, as executor, I would represent the legatees. I had no notion of making any agreement with the legatees whatever.

Q But you soon had the notion of making arrangements with the legatees, and you corraled all those men for Mr. Austin on a contingent basis?

MR. AUSTIN: We object to this as immaterial, if your Honor please.

Q BY MR. CAMPBELL: How about these stockholders, Mr. Stillwell?

A What about them?

(Testimony of J. E. Stillwell.)

Q Wasn't it understood between you and Mr. Austin that you would use your good offices with these stockholders and have them join in this suit, upon the same basis?

A I think I told them Mr. Swan had employed Mr. Austin, and would like to have them join in too, would like to have them take up the matter.

Q Didn't you suggest when this matter was instituted that you would go to these other stockholders and get them to join?

A I had no notion of it until Mr. Allard suggested that Mr. Swan had held that stock for years, and received no dividends, and wanted his money very badly, and wanted to take some action, and then I wrote to Mr. Swan.

Q Wasn't there any other stockholder you had communicated with at all?

A Not at that time. I hadn't thought of approaching them. I thought Mr. Lathrop and the Gridley Estate owned all the property.

Q But you did have a talk with these other stockholders later?

A After Mr. Swan had employed Mr. Austin.

Q And in your letter to Mr. Swan you indicated to him that there would be an endeavor to have others join in this proceeding?

A I have given you my recollection. I can produce the letter, or a copy.

Q Are you willing to testify that there was no such intimation to Mr. Swan?

A I have given you the best recollection I could of the subject. Do you wish me to go over it again?

(Testimony of J. E. Stillwell.)

Q Yes?

A Just repeat the question, please.

(Question read.)

Q (Continuing) No such intimation to Mr. Swan, that no one else was going to help him out in this suit or be associated with him?

MR. AUSTIN: If the Court please, we submit that that has been covered by the examination, and it is not material anyway.

THE COURT: Well, he may repeat or summarize it.

A At that time I was rather expecting—I thought it was my duty to take such action as might be necessary on behalf of the legatees to distribute this money, and when Mr. Allard insisted that Mr. Swan would like to join in with it, he gave me his address and I wrote to him.

Q You are an attorney, aren't you?

A Well, I used to think I was.

Q You were never advised by counsel that an executor of an estate who had sworn to administer the provisions of a will, which provides for the distribution of certain stock, is under any obligation to instigate a suit for the dissolution of a corporation and the liquidation of its assets? You were never so advised, were you?

MR. AUSTIN: We object to that as calling for matters of hearsay and conversation with other people that isn't material. The question of his rights is a question of law, and any opinion he may have had of his own wouldn't really count in any way.

MR. CAMPBELL: He is defending himself for instigating this suit, on the ground that he felt that he thought it was his duty as an executor.

(Testimony of J. E. Stillwell.)

MR. AUSTIN: We object to any further testimony on this matter, on the ground that he is not on trial here today. The question is whether or not the complaint states a cause of action sufficient to give this "jurisdiction." We object to the further examination, on that ground.

MR. CAMPBELL: The Court has a right to investigate the question of jurisdiction when it is passing upon a matter of diversity of citizenship, when it appears that this witness, apparently out of some false conception of his duty, as he explains it—which I very much doubt—as an executor of some estate, writes to a stranger he never heard of and induces him to become the plaintiff, and then goes around to get others to become defendants, and they all show up here represented by the same lawyer; then it seems to me that it is plain upon the face of it, and out of the works of this very witness, that this Court has no jurisdiction of this suit.

THE COURT: Well, he has, I think, answered the question. It wouldn't make any particular difference, would it, whether he had been advised that it was his duty. He says his only interest was to get the cash for legatees who were, as a matter of law, entitled to the stock, and of course whether he was advised he had any such legal duty or not wouldn't make any difference, would it? As a matter of law, his business was to distribute the stock.

Q BY MR. CAMPBELL: Now, did you secure these other parties as clients for Mr. Austin?

A Yes, sir.

MR. AUSTIN: We object as immaterial, if the Court please.

(Testimony of J. E. Stillwell.)

THE COURT: Well, he answered the question.

Q BY MR. CAMPBELL: They were secured on the same basis of a contingent fee?

MR. AUSTIN: We object to that, if the Court please, as not material.

THE COURT: Well, he may answer, if he knows.

A Yes, sir.

Q BY MR. CAMPBELL: All on the same basis?

A Yes, sir.

Q Have you an interest in that fee?

A I expect to be paid for my services. I am a stockholder in the company.

MR. CAMPBELL: That is all.

CROSS-EXAMINATION

BY MR. AUSTIN:

Q Did you ever suggest to Mr. Swan in any of your correspondence with him that type of an action should be brought to bring about a dissolution of this corporation?

A No, sir.

Q Did you ever suggest to him whether the employment of an attorney would involve litigation or not?

A I am not sure.

Q Isn't it a fact that you simply suggested to him that he should employ an attorney, that it was possible a dissolution of the corporation might be brought about, and that nothing was said in your correspondence about what the means to be employed were, or what the relations of the parties might be?

A It was just simply to employ Mr. Austin to look after his interests.

(Testimony of J. E. Stillwell.)

Q In any conversation you had with any other stockholder of the Consolidated Water Company of Pomona did you suggest what action should be taken in their behalf, besides the employment of an attorney?

A I believe I did.

Q Did you suggest to any of them that a suit would be brought for their benefit by somebody else?

A Well, I suggested a suit would be brought, perhaps I did. I have forgotten just what I said.

Q Did you tell any of them what court the suit would be brought in?

A Yes, sir.

Q And what the nature of it would be. When was that with reference to the time Mr. Swan employed me, if you know?

A It was after you had decided that, in Mr. Swan's interest, you would bring the suit for him in the United States Court.

Q Was anything said by you to the other parties in those conferences to the effect that suit was to be brought for their benefit or was to be their suit, rather than Swan's suit?

A No, sir.

MR. AUSTIN: That is all.

REDIRECT EXAMINATION

BY MR. CAMPBELL:

Q Well, Mr. Stillwell, do I understand you now to say that when you got in touch with Swan there was no mention of suit, that it was only for the employment of an attorney?

A I believe the letter stated that Mr. Austin would look after his interests for a contingent fee, in case he

(Testimony of J. E. Stillwell.)

was successful, by suit or otherwise. I believe those words were used.

MR. CAMPBELL: Would you read the testimony of the witness, the third question asked by Mr. Austin?

(Testimony read as follows:)

“Q—Did you ever suggest to him whether the employment of an attorney would involve litigation or not?

A—I am not sure. Q—Isn't it a fact that you simply suggest to him that he should employ an attorney, that it was possible a dissolution of the corporation might be brought about, and that nothing was said in your correspondence about what the means to be employed were, or what the relations of the parties might be?

A—It was just simply to employ Mr. Austin to look after his interests. Q—In any conversation you had with any other stockholder of the Consolidated Water Company of Pomona did you suggest what action should be taken in their behalf, besides the employment of an attorney? A—I believe I did.”

Q BY MR. CAMPBELL: How do you explain that? I am calling your attention to your previous testimony with respect to the employment of Mr. Austin, in which you say it was simply for the employment of an attorney, without any reference to the means to be employed by the attorney?

A Mr. Campbell, I have given you my best recollection.

Q Which of those statements is correct, Mr. Stillwell?

A Well, I did not think a suit would be necessary, until he said the code didn't provide for the dissolution

(Testimony of J. E. Stillwell.)

under those circumstances—I never supposed a suit would be necessary to distribute this money.

Q That was after you had heard from Mr. Swan, wasn't it?

A Well, Mr. Lathrop said, "Well, if we have no right to hang on to that money,"—

Q I asked you the question whether that was after you heard from Mr. Swan?

A Well, it must have been afterwards, because that was the first start I made to look up this matter, to find out the situation at Pomona, and then Mr. Allard called my attention to Mr. Swan.

Q And you promptly communicated with Mr. Swan, and he wrote you this letter to employ an attorney on a contingent basis, and then you talked to other members of the corporation and interested them, is that so?

A I went to them afterwards, yes, sir.

Q You employed an attorney?

A Yes, sir.

Q You didn't tell them that the suit had already been brought, did you?

A Suit had not been brought.

Q And they all signed up or authorized Mr. Austin to appear for them, before the suit was brought?

A Are you referring to the stockholders?

Q The stockholders?

A They were all very willing to join in.

Q And they all authorized joining in, prior to the time the suit was brought, is that correct?

A Before the suit was brought,—

(Testimony of J. E. Stillwell.)

Q All of the local stockholders joined in before the suit was brought, and after that time the suit was brought, is that correct?

A No, not all the local stockholders.

Q Well, some of them?

A Yes.

Q How many of them had not, and which ones?

MR. AUSTIN: We object to that on the ground that it is not material to any of the issues here.

MR. CAMPBELL: It is quite material, if your Honor please.

THE COURT: He may answer, if he knows.

A Well, Mrs. Smith was not asked to join, nor Sword was not asked to join, and Mr. Johnston, who holds one share.

Q I am talking about those who did actually join as defendants and as clients of Mr. Austin, who is also attorney for the plaintiff.

A What were you asking about them?

Q I am asking about James Loney, S. M. Haskell, Clefa Browning, Carl C. Boyd, F. C. Balfour, and Lillian B. Parry, all of whom have small numbers of shares of stock.

A Mr. Boyd employed Mr. Austin after the suit was brought.

Q He has one share?

A Yes, sir.

Q Who else employed Mr. Austin after the suit was brought?

A I don't know that I can say. I don't recollect.

Q You don't recollect any others?

(Testimony of J. E. Stillwell.)

A I am not sure that there was anyone else; it might be that Mr. Loney—I am not sure—Mr. Loney, I think, agreed to that before the suit was brought; I am not sure.

Q Did you have written contracts with all these stockholders?

MR. AUSTIN: We object to that, if your Honor please.

A Yes, sir.

Q BY MR. CAMPBELL: Did you have an arrangement with Mr. Austin that you would share in any fees that were received in this transaction?

A I told him that I would be good for the costs, that I would see that the costs were taken care of.

Q Did you have any arrangement with Mr. Austin by which you share in the fees; that he will compensate you?

A Yes, sir.

MR. AUSTIN: I object to that as immaterial.

Q BY MR. CAMPBELL: What compensation do you get out of this matter?

MR. AUSTIN: Objected to as immaterial.

MR. CAMPBELL: He is the man that brought these people all together.

THE COURT: I guess the amount would be immaterial, wouldn't it? Sustained.

MR. CAMPBELL: An exception. That is all.

RE-CROSS EXAMINATION

BY MR. AUSTIN:

Q When was it that you had this correspondence you speak of with Mr. Swan?

A I think it was in June or July.

(Testimony of J. E. Stillwell.)

Q Of 1927?

A Yes, sir.

Q Do you know whether or not any efforts were made on behalf of Mr. Swan, by me, to bring about a distribution of the assets of the Consolidated Water Company of Pomona prior to filing suit, and before these other persons were consulted?

A I do.

Q When, and what was done?

MR. CAMPBELL: We object to that as incompetent, irrelevant and immaterial, what efforts were made.

THE COURT: It is not cross-examination, but you can make him your own witness for that purpose.

MR. AUSTIN: It is in answer to some of the inferences.

A At the annual meeting of the stockholders on August 31st you presented a motion there, a resolution, that the officers and directors be directed to take such action as might be necessary to dissolve the corporation and distribute the assets among the stockholders.

MR. CAMPBELL: We will stipulate to that. We will stipulate that they have asked us to dissolve the corporation, and we will stipulate that the defendant whom I represent refused to do so, and that they made a request to dissolve.

MR. AUSTIN: We will also stipulate that the corporation held a special stockholders' meeting to consider the matter.

MR. CAMPBELL: And decided in the negative.

MR. AUSTIN: And at that time the plaintiff, Mr. Swan, and I offered a resolution to disincorporate, and that it was considered by the meeting.

(Testimony of Robert E. Austin.)

MR. CAMPBELL: I don't know whether you offered it by Swan or not, but there was some such resolution offered.

Q BY MR. AUSTIN: Do you know, Mr. Stillwell, whether at the meeting of the stockholders on September 19th I appeared in behalf of Mr. Swan and offered a resolution asking the officers to prepare for a dissolution of the corporation?

A You so stated when you offered the resolution.

MR. AUSTIN: That is all.

MR. CAMPBELL: That is all, Mr. Stillwell.

MR. CAMPBELL: I would like to ask Mr. Austin a question.

MR. AUSTIN: Sure.

ROBERT E. AUSTIN,

called as a witness, being interrogated not under oath, testified as follows:

Q BY MR. CAMPBELL: Mr. Stillwell brought this client to you, Mr. Swan, so far as you know?

A That is, it came through contact with Mr. Stillwell.

Q And when you were casting about to see which would produce the best results, and before you filed your suit, you were representing other stockholders who were residents of California, weren't you?

Q Well, I think I was, but I am not quite sure; I think I represented Mr. Haskell at that time, who holds ten shares of stock; and I think that in the answer that I filed I appeared for some other stockholder who holds one share apiece, and I think two who hold five

(Testimony of Robert E. Austin.)

shares apiece, so that the amount of stock held by others I represent besides Mr. Swan is small, except I think Mr. Loney owns fifty shares. Mr. Loney employed me since the suit was filed.

Q Some six or eight stockholders?

A I don't remember. But at the time I filed the suit, I represented, besides Mr. Swan, about thirty or forty shares of stock, perhaps.

Q How many stockholders?

A All that I finally appeared for, except Mr. Loney and Mr. Boyd. I think those two have employed me since.

Mr. Campbell: That is all.

THE COURT: I will take your statement.

MR. AUSTIN: The statement is that I was employed by Mr. Swan sometime along in July, I believe it is—it may have been August, 1927—to make an effort on his behalf to secure a dissolution of the Consolidated Water Company of Pomona, and to secure a distribution to its stockholders, particularly to himself, of his proportionate share of its assets. At the time of that employment there was no discussion or determination of just what steps would be taken. At that time I had not determined what steps would be taken, but I anticipated that it might be brought about by friendly negotiations; and pursuant to that employment I undertook such negotiations, but they promptly failed, and I then began to cast about to determine what kind of an action to bring and where to bring it, in order to produce the best results. And the present suit is the result of that consideration on my behalf. None of the other parties

1. Reporter's transcript of testimony and proceedings on order to show cause and motion to dismiss, prepared by C. W. McClain, of Reynolds and St. Maurice, official reporters, United States District Court, and filed December 15th, 1927, and which said reporter's transcript is hereby stipulated to be a true and correct transcript of said testimony and proceedings.

3. Copy of this stipulation.

4. Praeceptum of defendants calling for the foregoing papers.

with the same force and effect as if said papers had been incorporated in the original transcript.

DATED: April 21st, 1928.

Robert E. Austin, John N. Helmick,
Attorney for plaintiff.

Kemper Campbell
Attorney for defendants.

[Endorsed]: In Equity. No. M 112 H. In the District Court of the State of California, in and for the County of Los Angeles. Gary H. Swan, plaintiff, vs. Consolidated Water Company of Pomona, et al., defendants Stipulation. Filed Apr. 25, 1928 R. S. Zimmerman, R. S. Zimmerman clerk. Kemper Campbell and Chas. L. Nichols, attorney at law Fifth and Spring Streets, Los Angeles, California. Vandike 7735. 1408 Chapman Bldg. Attorney for defendants.

UNITED STATES OF AMERICA
District Court of the United States
SOUTHERN DISTRICT OF CALIFORNIA

Gary H. Swan

Plaintiff

CLERK'S OFFICE

vs.

No. M. 112 H.

Consolidated Water Co. of

PRÆCIPE

Pomona, et al.,

Defendants.

TO THE CLERK OF SAID COURT:

Sir

Please issue Supplement to Transcript on Appeal and include therein the following papers:

Reporter's Transcript of Testimony & Proceedings on Order to Show Cause and Motion to Dismiss—Stipulation Re Transcript, and This Praeipce

Kemper Campbell

Atty for Defendants

[Endorsed]: No. M 112-H U. S. District Court Southern District of California Praeipce for Filed Apr. 20, 1928 R. S. Zimmerman Clerk. By Edmund L. Smith Deputy Clerk.

UNITED STATES OF AMERICA
District Court of the United States
SOUTHERN DISTRICT OF CALIFORNIA

Gary H. Swan

Plaintiff

vs.

Consolidated Water Co. of
Pomona, et al.,
Defendants.

No. M. 112 H.

CLERK'S
CERTIFICATE.

I, R. S. ZIMMERMAN, Clerk of the United States District Court for the Southern District of California, do hereby certify the foregoing volume containing 23 pages, numbered from 1 to 23 inclusive, to be the Supplement to the Transcript of Record on Appeal in the above entitled cause, as printed by the appellant, and presented to me for comparison and certification, and that the same has been compared and corrected by me and contains a full, true and correct copy of the Reporter's Transcript of Testimony and Proceedings on Order to Show Cause, Stipulation and Praecipe.

I DO FURTHER CERTIFY that the amount paid for printing the foregoing record on appeal is \$ and that said amount has been paid the printer by the appellant herein and a receipted bill is herewith enclosed, also that the fees of the Clerk for comparing, correcting and certifying the foregoing Record on Appeal amount toand that said amount has been paid me by the appellant herein

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Seal of the District Court of the United States of America, in and for the Southern District of California, Southern Division, this.....day of....., in the year of Our Lord One Thousand Nine Hundred and Twenty-eight, and of our Independence the One Hundred and Fifty-second.

R. S. ZIMMERMAN,
Clerk of the District Court of the
United States of America, in
and for the Southern District
of California.

By

Deputy.

